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Marihuana Report

As submitted to Governor Shapp and the Pennsylvania General Assembly • Commonwealth of Pennsylvania
July, 1975

The Governor's Council
ON DRUG AND ALCOHOL ABUSE

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August 1975

To the Governor and General Assembly of the Commonwealth of Pennsylvania:

The concern associated with the extensive use of marihuana by Pennsylvanians prompted the Governor's Council to thoroughly examine and collect the pertinent material related to this dilemma.

In March 1975 my staff prepared "Marihuana: A Discussion Paper" to stimulate a debate about the effects of the 1972 Controlled Substance, Drug, Device, and Cosmetic Act. The paper was prepared because we were under the impression the Act did not significantly affect marihuana use.

This report is an extension of the discussion paper and includes our findings and recommendations. It may be thought of as exhaustive in its completeness; however, we could not justify our recommendations for altering the drug laws without systematic scrutiny of all available facts.

The report represents over seven months of research and analyses on marihuana use and the implications of this use to social policy makers.

We respectfully submit this report to you for review, discussion, and consideration.

By Direction of the Council,

Richard E. Horman

Richard E. Horman, Ph.D.

The Governor
The President of the Senate
The Speaker of the House

MARIHUANA REPORT

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INTRODUCTION

In March 1975 "Marihuana: A Discussion Paper" was prepared by the staff of the Governor's Council on Drug and Alcohol Abuse in an attempt to evaluate the impact of the existing marihuana policies in the Commonwealth of Pennsylvania. The report explored the attitudes of the Pennsylvania public toward marihuana, the impact of current laws, the health research controversy, and law enforcement. This second and final edition is an extension of that report.

The first report in March was necessary in order to define and clarify all the issues surrounding marihuana in Pennsylvania. Only after analyzing the situation methodically could the Governor's Council consider offering concrete alternatives to the existing laws.

It is our position that three years is a responsible length of time to wait in order to evaluate the effect of the legislative policies passed in 1972 (Act 64).

Through public hearings that resulted in several hundred pages of testimony, we solicited opinions and direction from public officials, community organizations, lawyers, drug program personnel, students, and health officials. (Summaries of the testimony are included.)

As published in the first report, we initiated a statewide public opinion poll (Oliver Quayle and Company, Inc.) to ascertain public usage of marihuana, frequency of use, attitudes toward changing the present law, and knowledge of existing laws as they pertain to marihuana.

In addition, when criminal statistics were unavailable, we conducted a separate survey to all the district attorneys in order to obtain visibility on the usage of judicial alternatives to incarceration as applied to cases involving marihuana.

This expanded and final edition focuses on Pennsylvania's experience with marihuana. It compiles all the present pertinent data and includes recommendations for responding to this social dilemma.

# # #

MARIHUANA POLL: ATTITUDES & USAGE

In a poll conducted in February, 1975, by Oliver Quayle and Company for the Governor's Council on Drug and Alcohol Abuse, the following highlights the results compiled from the 1200 people interviewed:

1. THE MAJORITY OF ADULTS (57%) BELIEVE THE EXISTING MARIHUANA LAWS SHOULD BE STRICTER. HOWEVER, 61% (OF THE SAME 57%) ARE NOT AT ALL FAMILIAR WITH THE PRESENT MARIHUANA LAWS AS THEY EXIST TODAY.

The majority of people who stated they were very knowledgeable or quite familiar with the law felt the marihuana laws should remain the same or become more lenient (49%); whereas, 45% of the people in the same category felt they should be stricter.

Past and present marihuana users disagree sharply with non-users --60% of those who have tried marihuana favor a more lenient law.

An analysis by party affiliation demonstrates that Republicans are the most conservative, with Independents and Democrats leaning slightly toward lenient restrictions.

The majority of all demographic groups favor stricter laws (even among the young and college educated).

Only 1/3 of all adults between 18 and 25 years of age and 1/3 of adults with some college or a college degree favor more lenient laws. Yet, as many people from the same group favor stricter laws.

(In contrast to these statistics, the Drug Abuse Council, Inc., Washington, D.C., released in February, 1975, the results of a national survey of marihuana use and attitudes. The survey showed 39% favor eliminating criminal penalties for sale/possession/private use of marihuana, and 40% favor stricter laws.)

As stated previously, the majority of those people interviewed opposed any leniency of the law. However, 52% opposed the removal of criminal offenses of a small amount of marihuana; whereas 80% opposed legalization (complete authorization of use) of possession and sale of a similar amount.

2. ONLY 4% OF PENNSYLVANIANS OVER 18 YEARS OF AGE REPORT THAT THEY NOW USE MARIHUANA, WHILE ANOTHER 11% REPORT PAST USAGE.

	Percentage of All Adult Residents
Ever Used Marihuana	11%
Currently Use Marihuana	4%
Used Marihuana in the Past	7%
Never Used Marihuana	87%
Refused to Answer	2%

If it is assumed that those who refused to answer have indeed tried marihuana, then a total of 13% of the State's adults have had experience with it.

Some 55% of current users smoke marihuana at least once a week, but only 17% smoke it once a day or more. It is likely that usage was understated somewhat due to the nature of the telephone

interviewing.

> (In contrast to the 11% figure drawn by Quayle with a telephone survey, the Governor's Council on Drug and Alcohol Abuse conducted a personal survey in 1973 of the prevalence and intensity of marihuana use in Pennsylvania. This study found that 19.2% of the population over 15 years of age used marihuana at least once during that year and 4.3% reported current usage of three or more times a week.)

There is some evidence to indicate that usage is indeed understated here. The Drug Abuse Council, Inc. conducted a survey of the national adult population in October, 1974, and found, with personal interviewing, that 18% had used marihuana at some time. Similarly, two surveys of the nation's 18 and older population conducted by the National Commission on Marihuana and Drug Abuse in 1971 and 1972 found, again in personal interviewing, that 15% and 16% respectively had tried marihuana. While it may be hypothesized that usage in Pennsylvania may be lower than on the West Coast or in the Northeast, it seems reasonable to suppose that it would not be lower than the national average.

3. AS EXPECTED, EXPERIENCE WITH MARIHUANA (11%) TENDS TO BE HIGHEST AMONG SINGLE MEN UNDER 35 YEARS OF AGE (BUT ESPECIALLY THOSE UNDER 26) AND WITH SOME EDUCATION BEYOND HIGH SCHOOL.

Recent college students are particularly in the majority, whether they are still in school, have dropped out, or graduated.

In contrast, relatively low experience is acknowledged by women, those who are 55 years of age or older, the widowed (who tend to be older), those with the least education, housewives, and Republicans.

4. WHEN THOSE WHO HAVE NEVER TRIED MARIHUANA (87%) WERE ASKED TO EXPLAIN THE REASONS FOR NON-USE, THE DOMINANT EXPLANATIONS WERE FEAR OF POSSIBLE HEALTH DANGERS AND A SIMPLE LACK OF INTEREST.

There were few and minor differences in the reasons cited by members of various demographic groups. Adults between 18 and 25 tend to cite fear of legal repercussions more than average, but less likely to report lack of opportunity. They were also more inclined to mention that they feel no personal need for it.

Health fears were most frequently cited by those with the least education, while those with some college or more were significantly less concerned about possible health hazards.

Lack of interest was the most frequently cited reasons among those with some college education (who tend to be young and presumably have opportunities to try marihuana).

# # #

MARIHUANA: THE LAW AND CRIMINAL PENALTIES IN PENNSYLVANIA

Prior to April, 1972, the criminal penalties for possession, sale, dispensing, or giving away of marihuana were defined under the "Drug, Device and Cosmetic Act," Act of September 26, 1961, (P.L. 1664).

Marihuana was then defined as a "narcotic drug" and all offenses which involved possession or delivery of marihuana were treated as a felony, and--except for the first offenders--prison sentences were mandatory.

Prior to 1972, no distinctions were made between possession, selling, distribution, or giving away of marihuana.

Penalties were the same regardless of the amount of marihuana involved. Therefore it made no difference whether or not someone was arrested for possession of one marihuana cigarette or ten pounds of marihuana. The penalties for simple possession of marihuana ranged from imprisonment of 2 to 5 years for the first offender to mandatory imprisonment for a third offender of "separate or solitary confinement at labor of not less than 10 years and not exceeding 30 years."

All this changed in June, 1972, when the "Controlled Substance, Drug, Device and Cosmetic Act," Act of April 14, 1972, (P.L. 233, No. 64) (hereinafter "Act 64") became law.

Act 64 established Schedules I-V of the controlled drugs (such as marihuana, opium, LSD, cocaine) and provided penalties for offenses under each schedule. Except for a small amount of marihuana, the penalties for sale, giving away, or possession are the same as

for LSD, barbiturates, and amphetamines.

Marihuana and hashish were defined* as Schedule I non-narcotic drugs. Furthermore, the legal distinction was made only between simple possession (misdemeanor) and possession with intent to deliver (felony). Selling and cultivation of marihuana is treated the same as possession with intent to distribute. No distinction is made.

Maximum Pennsylvania Penalties Act 64	1st Offense	2nd and Subsequent Offenses
Simple Possession (Misdemeanor)	30 grams**or less of marihuana or 8 grams or less of hashish, 30 days and/or $500.	Same Penalties
	Over above amounts, 0-1 year and/or $5,000	Same Penalties
Possession With Intent to Distribute (Felony)	0-5 years and/or $15,000	0-10 years and/or $30,000

* Act 64-Section 4 (1).
Schedule I

"In determining that a substance comes within this schedule, the secretary (of Health) shall find: a high potential for abuse, no currently accepted medical use in the United States, and a lack of accepted safety for use under medical supervision."

**30grams constitutes just over one ounce or comparable to the weight of tobacco in a package of cigarettes.

ALTERNATIVES TO INCARCERATION

In addition to traditional probation, three alternatives to prison for adults exist in Pennsylvania today:

1. Accelerated Rehabilitative Disposition (ARD)
2. Section 17 (Act 64) - Probation Without Verdict
3. Section 18 (Act 64) - Disposition In Lieu of Trial

ACCELERATED REHABILITATIVE DISPOSITION (ARD)

The basis for the ARD programs originally developed in Philadelphia in 1971. The next year this alternative was incorporated into the Pennsylvania Rules of Criminal Procedure. This program is aimed at the first offender charged with a less serious offense (e.g. possession of drugs, stolen property, public intoxication, trespassing).

In 1973, 95% of the 8,635 pretrial disposition cases were referred to ARD (6,831 of these cases were from Philadelphia County) from the criminal courts (figure excludes juvenile court).

An ARD program as established within the counties is generally an extension of the Probation Department where supervision is minimal. When a person is accused of a crime which the local district attorney and presiding judge agree is suitable for ARD, the defendant is given the opportunity to enter the ARD program and if the probationary period is completed without the defendant having committed an additional offense, the charges will be dismissed and the record will be expunged. At the same time, the defendant agrees to waive his rights to a speedy trial and statute of limitation

In a survey sent to the 67 district attorneys in January, 1975, by the Governor's Council on Drug and Alcohol Abuse, 47 replies (of the 49 returned) stated their counties have established an ARD program. However, only 31 counties utilize the program for marihuana offenses, which in 1974 totalled 452 cases.

(The total figure of 452 does not include Philadelphia County because records there were not categorized according to the offense. The Philadelphia District Attorney's Office has informed the Governor's Council on Drug and Alcohol Abuse that due to the tremendous number of cases, the Philadelphia District Attorney's Office usually drops any charges for possession of marihuana when it involves 30 grams or less. Section 17 was typically applied to college students convicted of selling a relatively small amount of marihuana, and Section 18 was used less extensively.)

In 1974, however, 10,823 cases were diverted prior to trial. Of these, 1,303 were drug violations with 631 persons placed in ARD, 646 persons given Probation Without Verdict, and 26 cases processed on Disposition in Lieu of Trial.

According to the Council survey, the majority of district attorneys do NOT choose to recommend ARD for marihuana offenses. Also, in spite of expungment mandated by law (Section 19, Act 64), we know of only three counties which substantially comply with the statute (Philadelphia, Allegheny, and Centre counties).

SECTION 17 (Act 64) - PROBATION WITHOUT VERDICT

This section permits the presiding judge at the time of a

hearing to place certain persons on a special period of probation with certain stipulations (e.g. attendance in a treatment and rehabilitation program). This is only offered to offenders who have no prior drug convictions under Act 64 and who decide to plead guilty or nolo contendere or who are found guilty at the time of the trial.

Excluded from this section are nondrug abusers who are charged with delivery or possession with intent to deliver.

Unlike ARD prescribed by the Pennsylvania Supreme Court Rule, it appears the concurrence of the district attorney for treatment under this section is not necessary.

After a person successfully completes his probation, the court then discharges him and dismisses the charges against him. Furthermore, Section 19 (Act 64) requires the court to expunge the record of those people who have satisfactorily completed Section 17 probation. As stated earlier, in the vast majority of counties, this procedure is not complied with as anticipated when the law was enacted.

According to the 1974 survey, the 23 counties (excluding Philadelphia County) who utilize Section 17 placed a total of 844 marihuana cases on "Probation Without Verdict."

Furthermore, 24 counties choose not to utilize this section as provided in Act 64.

SECTION 18 (Act 64) - DISPOSITION IN LIEU OF TRIAL

This section provides an alternative for the drug abuser who has been charged with a non-violent crime and who has requested

treatment prior to the trial.

At this time a court-appointed physician experienced in the field of drug abuse is selected to examine the defendant and may recommend that the charges be withdrawn or held in abeyance in order that the defendant may enter into a drug abuse treatment program.

Implementation of the physician's recommendations is at the discretion of the local district attorney with the court's approval.

As indicated by the 1974 survey, Section 18 is used on a limited basis. Of those polled, eleven counties (including Philadelphia County) use this section and 37 counties do not.

In conclusion, the Pennsylvania Supreme Court and the Pennsylvania General Assembly have provided constructive alternatives for both the citizens of Pennsylvania and the judicial branch of government. As demonstrated in this section, the use of alternative dispositions is far from uniform across the Commonwealth. There is a great deal of truth in the philosophy: In Pennsylvania if you are charged with drug violations, the outcome of your case may well depend on where you are arrested.

The goal is to insure that the use of alternatives to incarceration is uniform to the largest extent possible and to devise a comprehensive program which utilizes the best features of the three described from the law enforcement and treatment viewpoints.

# # #

MARIHUANA LAW ENFORCEMENT

The number of arrests for marihuana violations is steadily rising each year. Whereas 283 marihuana arrests are reported for 1965, this figure grew to 6,898 arrests in 1972. After the "Controlled Substance, Drug, Device and Cosmetic Act" (hereinafter "Act 64") became effective, marihuana arrests soared to 9,616 in 1973, representing 63% of the total narcotic and other drug arrests that year.

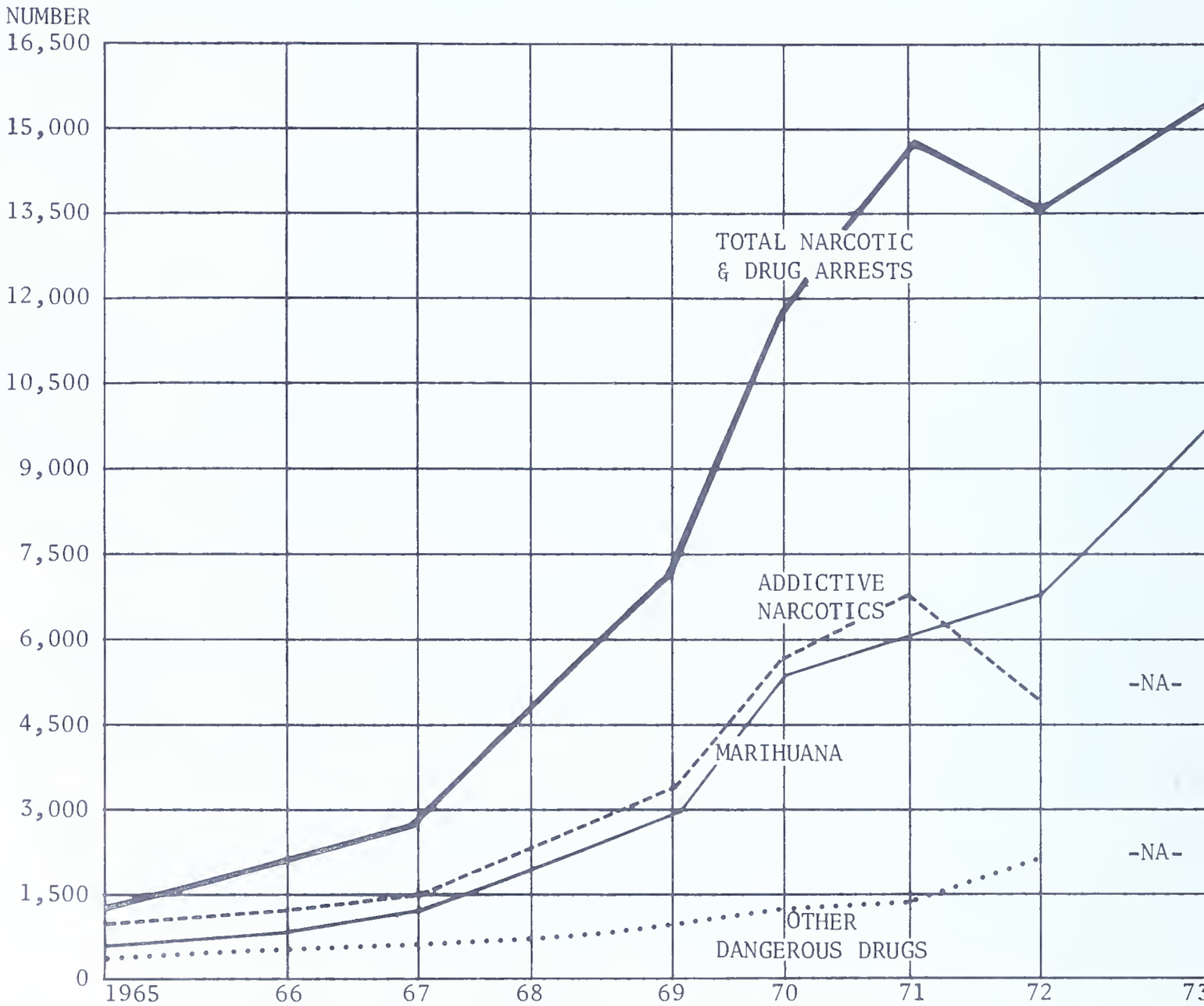
A summary of these records for the period 1965-1973 is presented in Figure 1, which was modified from Crime and the Pennsylvania Criminal Justice System, Governor's Justice Commission. This data includes arrests by both State and local enforcement officers for both levels of violations in connection with marihuana; i.e. simple possession, possession with intent to distribute. The modifications include the addition of records for 1973 obtained from the Pennsylvania State Police and the United States Drug Enforcement Administration.

As indicated in the chart, marihuana arrests account for increasingly greater proportions of the total drug arrests each year.

Figure 2 presents national statistics, excluding Federal arrests, for 1968-1972. The number of State and local arrests cannot be compared to the national Uniform Crime Report statistics because Federal law enforcement agency figures are excluded. The percentages of marihuana arrests, however, outline the same trend with heroin

Figure 1

Pennsylvania Narcotic and Drug Law Arrests 1965-1973



Percentage: marihuana/total	'68	'69	'70	'71	'72	'73
	41%	43%	43%	43%	50.5%	63%

*15,258 total narcotic and drug arrests; figure extracted from "Pennsylvania Uniform Crime Report, 1973"

"Crime and the Pennsylvania Criminal Justice System"

and cocaine dominating 1969-1970-1971 and marihuana rising again in 1972 at a faster pace.

Figure 2 NATIONAL TABLE OF STATE AND LOCAL PERFORMANCE MEASUREMENTS

State & Local Drug Law Arrests in U.S.	1968	1969	1970	1971	1972
TOTAL	162,177	232,690	346,412	400,606	431,608
Heroin & Cocaine	42,328	67,945	108,427	114,573	92,364
Marihuana	78,169	95,868	157,271	183,878	239,111
Synthetic Narcotics	8,920	15,125	19,053	26,040	38,413
Other	32,760	53,752	61,661	76,115	61,720
Percentage of Total Marihuana Arrests	48.2%	41.2%	45.4%	45.9%	55.4%

*Source: Uniform Crime Report
U. S. Department of Justice
Drug Enforcement Administration
March, 1974

OFFICE OF DRUG LAW ENFORCEMENT

The Office of Drug Law Enforcement (hereinafter "the Office") was established in the Pennsylvania Department of Justice in 1973 to coordinate and direct the enforcement of Act 64 on the State level. This office oversees the activity of the State Polic Strike Force, which was created in January, 1972, in response to the increased need for specialized enforcement efforts for drug offenses in the State. As of February, 1975, 84 officers are assigned to the Strike Force.

Presently, the Bureau of Drug Control which functions under the Office has 115 enforcement personnel, 100 of whom are narcotic agents. When the regional office structure is fully operational, there will be 8 local strike force offices shared by the Bureau of Drug Control and State Police Strike Force personnel. At that tim

the arrest statistics will be a single total for the cooperative enforcement efforts under the Office.

The drug arrest statistics, 1971-1974, for all State law enforcement officers appear in Figure #3 below.

FIGURE #3 - MARIHUANA ARRESTS BY STATE POLICE AND NARCOTICS AGENTS

	Total	Office of Drug Law Enforcement **		Other State Police
		State Police Strike Force	Bureau of Drug Control & Predecessors	
1971	1,484	-----	294 (sale 77 / poss 217)	1,190
1972	1,358	-----	330 (sale 173 / poss 157)	1,028*
1973	1,762	-----	281 (sale 237 / poss 44)	1,481* (sale 445 / poss 1,036)
1974	2,244	641 (sale 577 / poss 64)	277 (sale 267 / poss 10)	1,326 See Appendix

Statistics compiled from arrest data from Joseph Reiter, Esquire, Special Deputy Attorney General
*State Police Strike Force arrests are included.
**Strike Force does not operate in Philadelphia.

The rise in marihuana arrests from 1,358 in 1972 to 1,762 in 1973, and 2,244 in 1974, reflects the Statewide increase in marihuana arrests cited earlier.

The arrest statistics from the Bureau of Drug Control for two years after Act 64 took effect indicate that after the legal distinction was made between possession and possession with intent to distribute, the special State drug authorities emphasized the distribution charge which is a felony offense.

Of the marihuana arrests in 1973 initiated by the Bureau of Drug Control, 237, or 84.3%, were for felony offenses. In 1974, 267, or 96.4%, were felony arrests.

Regarding court disposition of the above arrests, the Office of Drug Law Enforcement's conviction rate for felony offenses is 80% to 90%.

The rate of conviction for all narcotics sales offenses processed in the Pennsylvania courts in 1973 is 69% (Pennsylvania Criminal Court Dispositions, 1973, Department of Justice, Bureau of Criminal Justice Statistics). That is 69% of all defendants processed for felony offenses. If the Statewide percentage conviction rate of all those arrested for the felony could be calculated, it would be lower.

For simple possession offenses in the same year, only 42% of the cases processed resulted in convictions.

Seemingly, 9,616 marihuana arrests for 1973 represent a significant law enforcement effort by local and State officers. This enforcement effort, however, may not represent a large inroad into the incidence of marihuana use as the 1973 incidence and prevalence study of drug use conducted by the Governor's Council on Drug and Alcohol Abuse estimated that 350,000 Pennsylvanians over age 15 are "high intensity" users of marihuana.

If these figures are accurate, then this enforcement effort reaches less than 3% of its target population. The objectives of recent State enforcement efforts, however, have been to contain the

distribution of marihuana. The same survey cited above also estimates that 19.2% of the population of Pennsylvania used marihuana during 1973. This suggests that a significant impact on marihuana distribution has not been made.

PENNSYLVANIA LAW ENFORCEMENT COSTS

Although it would be useful for a complete evaluation to know the expenditure involved in the effort to enforce the laws against marihuana possession and distribution, such a cost assessment has not been conducted in Pennsylvania.

The State of California, however, has compiled the expenditures associated with marihuana law enforcement. The figures may provide a crude estimate of the expenditures realized in Pennsylvania. A detailed study of marihuana enforcement costs was conducted in California for the period 1960-1972. California, with a population of 20 million people (1970) as compared to Pennsylvania's 11.8 million, is the highest ranking state for marihuana offenses. For example, the California arrests of 10,002 in 1965 surpasses Pennsylvania's arrests of 9,616 for 1973.

Seven years ago more than half (50,000) of the nationwide marihuana arrests were made in California. The annual cost to California for the enforcement of marihuana laws rose from $8 million in 1960 to $72 million in 1968.

If one could speculate that criminal justice expenses are similar in both states, the estimated average cost per arrest of California marihuana enforcement can be used to derive a Pennsylvania estimate. The cost per arrest in California was $1,630 before 1969.

Reduction of penalties and changes in enforcement procedures brought the California cost per arrest estimated down to $1,340 after 1969. If the Pennsylvania expenses are taken as comparable to California's ($1,340), Pennsylvania's 1972 marihuana arrests would have an estimated enforcement cost of $9.2 million.

CRIMINAL PENALTIES UNDER CURRENT MARIHUANA LAWS IN OTHER STATES

The most notable feature of marihuana laws in the United States is the widely disparate treatment of offenders and offenses.

For first offenses, maximum penalties range from imprisonment up to 15 years or fine of $10,000 (Rhode Island) to legal possession of up to one pound of marihuana in the home in Alaska. For subsequent offenses of simple possession the penalties range from life imprisonment (Indiana) to 14 days and/or $1,000 fine (Nebraska).

Some important trends have emerged in all states in recent years. Most states have reduced penalties for possession, formalized a policy of lenience toward first offenders, and eliminated minimum mandatory sentences.

These trends are most apparent in connection with possession of marihuana, which at least for small amounts, is a misdemeanor in 45 states (Rhode Island continues to punish these offenders as felons). Three states, however, still make no distinction between marihuana and narcotics.

Another important trend is the special legal treatment accorded the first offender. In 32 states (including Pennsylvania) a conditional discharge is permitted for first time offenders. A conditional discharge permits the release of an offender before formal adjudication. If the conditions are met, the case is dismissed and the defendant discharged. In most states, these discharges are awarded at the discretion of the judge. In Massachusetts and West Virginia the conditional discharge of first offenders is mandatory.

A final emerging trend is a graduation of penalties administered for possession offenses. Most states now make distinctions according to the amount

of marihuana possessed, and administer a graduated severity of penalties corresponding to the amount of marihuana possessed.

In the tables on the following page, state and Federal penalties for possession of marihuana are described. These tables were prepared by the National Organization for Reform of Marihuana Laws and are current as of July 1975.

The Federal Law

The Controlled Substances Act of 1970, Pub. Law 91-513 (Oct. 27, 1970).

OFFENSE	1st Offense	2nd Offense	Subsequent Offense
Simple possession	0-1 year, $5,000*	0-2 years, $10,000	Same
Possession with intent to distribute	0-5 years, $15,000	0-10 years, $30,000	Same
Sale or distribution	0-5 years, $15,000**	0-10 years, $30,000	Same
Sale or distribution to a minor	0-10 years, $30,000	0-15 years, $45,000	Same

*For first offender, court has descretionary authority to defer proceedings and place defendant on probation, which, if successfully discharged, avoids an adjudication of guilt. For offenders under 21, court has further discretionary authority to completely expunge the records.

**Distribution of a "small amount of marijuana for no remuneration" is to be treated the same as simple possession.

Penalty Provisions for Major Marijuana Offenses
(All fines are represented as maximum amounts possible)

A. POSSESSION

	1st Offense	2nd Offense	Subsequent Offense
Alabama	0-1 year/$1,000	2-15 years/$25,000	...
Alaska	Possession of up to one pound in a private home for personal use is legal. Possession of one ounce in public: $100. Possession while driving a motor vehicle: $1,000. Public consumption: $1,000.		
Arizona	0-1 yr. in county jail and/or $1,000 or 1-10 yrs. and $50,000	2-20 yrs. and $50,000	5 yrs.-life and $50,000; parole possible after 5 yrs.
Arkansas*	0-1 yr. and/or $250	0-1 yr. and/or $250	2-5 yrs.
California	one oz.: $100 (Transporting or transfer without consideration same		
Colorado	more than one oz.:6 months/$500		as possession of 1 oz.
	Non-public possession of one ounce: $100 fine. Public display or consumption: 15 days and/or $100. Possession of over one ounce for personal use: Misdemeanor 1 yr. maximum and/or $500.		
Connecticut	0-1 year and/or $1,000 or up to 3 years in custody of commissioner	...	...
Delaware*	0-2 yrs. and/or $500	0-7 yrs. and/or $500	...
Florida	Less than 5 grams, 0-1 year and/or $1,000; More than 5 grams, 0-2 years and/or $1,000	0-2 years and/or $1,000	...
Georgia	0-1 year and/or $1,000 for up to 1 oz.; 0-2 years and/or $2,000 for over 1 oz.	0-5 years and/or $5,000	...
Hawaii*	Up to 2 oz., 0-30 days and/or $500; 2 oz. and over, 0-1 yr. and/or $1,000; 1K and over, 0-5 yrs. and/or $5,000	...	...
Marijuana Concentrates	Up to ⅛ oz., 0-1 yr. and/or $1,000; ⅛ oz. and over, 0-5 yrs. and/or $5,000; 1 oz. and over, 0-10 yrs. and/or $10,000	...	...
Idaho	0-6 months and/or $300	...	...
Illinois*	Amount		
	Less than 2.5 grams, 0-90 days	...	...
	2.5 to 10 grams, 0-180 days	...	...
	10 to 30 grams, 0-1 year	1-2 years	...
	30 to 500 grams, 1-3 years	2-6 years	...
	Over 500 grams, 1-5 years	2-7 years	...
Indiana	Less than 25 grams or 5 grams hashish, *1 year and/or $500* Over these amounts,	2-15 years and/or $3,000	...
Iowa*	*2-10 yrs. and/or $1,000*	0-18 months and/or $3,000	...
Kansas*	0-1 yr. and/or $2,500	0-10 yrs. and/or $5,000	...
Kentucky*	0-90 days or no more than $250	...	...
Louisiana*	0-1 year and/or $500	0-5 years with or without hard labor and/or $2,000	0-20 years hard labor
Maine	Up to 1½ oz: Max. $200 civil fine. Over 1½ oz.**: Max. 1 yr. -- No fine		
Maryland*	0-1 year and/or $1,000	0-2 years and/or $2,000	0-2 years and/or $2,000
Massachusetts*	0-6 months/$500	0-2/$2,000	...
Michigan*	Up to 2 oz., 0-1 yr. and/or $1,000	0-2 yrs. and/or $2,000	...
Minnesota*	Under 1.5 oz., 0-1 year and/or $1,000; Over 1.5 oz., 0-3 years	0-6 years and/or $6,000	...
Mississippi*	Under 1 oz., 0-1 yr. and/or $1,000; Over 1 oz., 0-3 yrs. and/or $3,000	Under 1 oz., 0-2 yrs. and/or $2,000; Over 1 oz., 0-6 yrs. and/or $6,000	...

* Conditional discharge for first offense possession

**Persumed for resale.

	1st Offense	2nd Offense	Subsequent Offense
Missouri*	Under 35 grams or 5 grams Hashish, 0-1 year and/or $1,000; Over these amounts, 0-5 years and/or $1,000	0-5 years and/or $1,000	. . .
Montana	Up to 60 grams marijuana or 1 gram hashish, 0-1 yr. and/or $1,000; if shown to be habitual user then committed to rehabilitation institution; 0-5 years or rehabilitation for over 60 g.	0-3 yrs. and/or $1,000	. . .
Nebraska	Less than 1 pound, 7 days in county jail to be held separately and/or $500, Over 1 pound, 0-6 months in county jail or 1 year in prison and/or $500	Under 1 pound, up to 14 days and/or $1,000; Over 1 pound, 0-1 year in county jail or 2 years in prison and/or $1,000	. . .
Nevada*	Under age 21 and under 1 oz., 0-1 yr., $1,000 and suspension of driver's license or 1-6 years, $2,000; Over age 21, 1-6 yrs. and $2,000	Under age 21 and under 1 oz., 1-6 yrs. and $2,000; Over age 21, 1-10 yrs. and $2,000;	Under age 21 and under 1 oz., 1-10 yrs. Over age 21, 1-20 yrs. and $5,000
New Hampshire	Less than 1 pound, 0-1 year and/or $500; Over 1 pound, 0-5 years and/or $2,000	Less than 1 pound 0-3 years and/or $1,000; Over 1 pound, 0-10 years and/or $5,000	. . .
New Jersey*	Under 25 grams or 5 grams hashish, 0-6 months , Over 25 grams, 0-5 years and/or $15,000	. . .	. . .
New Mexico*	Under 1 oz., 15 days and $50-$100; 1-8 oz., 0-1 yr. and/or $100-$1,000; Over 8 oz., Determination of length of sentence to be made by Corrections Department (4th Degree Felony)	0-1 yr. and/or $100-$1,000	. . .
New York*	Less than 25 cigarettes or ¼ oz., 0-1 yr.; 25-99 cigarettes or more than ¼ oz., 2⅓-7 yrs.; Over 100 cigarettes or more than 1 oz., 5-15 yrs.	. . .	. . .
North Carolina*	Less than 5 grams marijuana, 1 gram hash, 1/100th gram THC, 0-6 mos. or $500; Over above amounts, 0-5 yrs. and/or $5,000	Less than 5 grams marijuana, 1 gram hash, 1/100th gram THC, 0-2 yrs. and/or $1,000; Over above amounts, 5-10 yrs. and/or $10,000	Less than 5 grams marijuana, 1 gram hash, 1/100th gram THC, 0-5 yrs. and/or $5,000; Over above amou ts, 15 yrs.-life and/or $15,000
North Dakota*	0-1 year and/or $500	. . .	. . .
Ohio	0-1 year and/or $1,000	1-10 years	. . .
Oklahoma*	0-1 year	2-10 years	. . .
Oregon*	*Up to 1 ounce, $100*	. . .	. . .
Pennsylvania*	Under 30 grams marijuana or 8 grams hashish, 30 days and/or $500; Over above amounts, 0-1 yrs. and/or $5,000	. . .	. . .
Rhode Island	0-15 yrs.and/or $10,000	0-20 yrs.and/or $10,000	0-30 yrs. and/or $10,000
South Carolina*	Under 1 oz. or 10 grams of hashish, 0-3 months and/or $100; and/or $1,000	Under 1 oz. or 10 grams of hashish, 0-6-months amounts, 0-1 year and/or $2,000	. . .
South Dakota*	Less than 1 oz., 0-1 year in county jail and/or $500 , Over 1 oz., 0-5 years and/or $5,000	0-15 years and/or $10,000	0-40 years and/or $20,000

* Conditional discharge for first offense possession

	1st Offense	2nd Offense	Subsequent Offense
Tennessee	Commitment to a state-operated drug treatment facility or community mental health center or, at the discretion of the court, up to 11 months, 29 days and/or $1,000	0-2 years	. . .
Texas	Up to 2 oz.—0-6 months and/or $1,000; 2-4 oz.—0-1 year and/or $2,000; Over 4 oz.—2-10 yrs., $5,000	10 years to life	. . .
Utah*	0-6 months and/or $299	0-1 year and/or $1,000	0-5 years in penitentiary
Vermont	Under 25 cigarettes or ½ oz., 0-6 mos. and/or $500	0-2 yrs. and/or $2,000	. . .
Virginia	0-12 months and/or $1,000	0-12 months and/or $10,000 or 2-20 years and/or $10,000	. . .
Washington	Under 40 grams, 0-90 days and/or $250; Over 40 grams, 0-5 yrs. and/or $10,000	Over 40 grams, 0-10 yrs. and/or $10,000	. . .
West Virginia*	90 days-6 months and/or $1,000*	3-12 months, $2,000	. . .
Wisconsin*	0-1 year in county jail and/or $250	. . .	. . .
Wyoming*	0-6 months and/or $1,000	0-6 months and/or $1,000	0-5 years and/or $5,000
District of Columbia	0-1 year and/or $100-$1,000	0-10 years and/or $500-$5,000	. . .

*Conditional discharge for first offense possession

NEW CHANGES IN OTHER MARIHUANA LAWS

Various cities and states have already chosen to remove criminal penalties for simple possession of marihuana. It should be noted that by removing criminal penalties for simple possession, cities and states are not "legalizing" marihuana.

On October 6, 1973, Oregon abolished criminal penalties for simple possession, substituting civil fines of up to $100. To sell marihuana, to grow, or to possess marihuana with intent to sell remains a felony in Oregon; by decriminalization we refer to social use and personal possession.

One year after the new legislation, two evaluation studies have been conducted to ascertain the impact of the revised statutes. One study conducted by the Oregon State Police indicated a 62.1 percent rise for 1973 in the total marihuana arrests for the state. For comparison the total nationwide arrests increased 43 percent over 1972; and Pennsylvania 1973 arrests increased 40 percent over the previous year. No comparisons are yet available for 1974, however.

In another study of the Oregon law, the Drug Abuse Council, Inc. observed that 58 percent of all respondents favor the present law or more liberal statute; only 39 percent thought the present law was too lenient.

In May 1975, the California legislature gave final approval to a measure which ends the arrest and jailing of persons charged with possession of small amounts of marihuana. The new law (effective January 1, 1976) calls for a civil fine not to exceed $100 for possession of up to one ounce of marihuana. Possession of more than an ounce will be punishable by a maximum of six months in jail and/or a $500 fine. Penalties for transporting or

transfer without renumeration are the same as simple possession of one ounce.

The Alaskan legislators approved a bill in May 1975 establishing a civil fine of no more than $100 for possession of up to one ounce of marihuana. A subsequent ruling by the Alaska Supreme Court, in effect, legalized possession of up to one pound of marihuana for personal use in a private home. The landmark decision was based on a test case which charged that penalties imposed for possession in a home violated the Constitutional guarantees of privacy.

The new Colorado law also distinguishes between private and public marihauna possession. Under the law passed on June 19, 1975, non-public possession of up to an ounce of the drug is punishable by a maximum fine of $100. Public display or consumption of marihuana is subject to a maximum 15 day jail term and/or a fine of $100. Possession of more than one ounce remains a misdemeanor under Colorado law.

The most recent decriminalization legislation in the nation was signed into law on June 18, 1975, in Maine. The new law punishes possession of up to one and one-half ounce of marihuana by a civil fine not to exceed $200. Amounts of the drug over one and one-half ounce are presumed to be intended for sale and offenders are subject to a one year jail term. The new measure will become operative on March 1, 1976.

The so-called "parking ticket" model was first introduced in Ann Arbor and Ypsilanti, Michigan. In 1973 the two neighboring cities approved a referendum providing for a maximum $5 fine for simple possession of marihuana. The city of Ann Arbor originally passed the ordinance in 1971. It was partially

invalidated by a district judge in 1972 and repealed by the city council in early 1973. Later that year, however, the "parking ticket" model was reinstated by a citizen referendum.

Federal decriminalization measures have been introduced in both the House of Representatives and the Senate. The Marihuana Control Act of 1975 was introduced simultaneously on April 17, 1975, in both chambers by Representative Ed Koch and Senator Jacob Javits (S.1450/H.R.6108). The bill based on the Oregon model, calls for a maximum civil fine of $100 for possession of an ounce of marihuana.

Representative Ed Koch (D-New York) has reintroduced (first introduced in 1972) the Javits-Koch bill (H.R. 561) which would completely decriminalize the possession of marihuana for personal use. This legislation reflects the recommendations of the National Commission on Marihuana and Drug Abuse.

# # #

THE PHYSICAL EFFECTS OF MARIHUANA

The current status of marihuana research is characterized by confusing controversies. Scientists have uncovered a wealth of information indicating that marihuana has a broader range of effects on the body than previously believed. In addition to the well known sensory alteration effects, marihuana is known to influence many biochemical functions. Some of these functions are vital to normal development, growth, and resistance to disease. On the other hand, current research does not offer a clear-cut answer to what hazards, if any, are incurred by the use of marihuana.

The greatest source of new information derives from experimentation on animals. Although animal studies contribute greatly to our understanding of drug action, they pose serious difficulties for interpreting drug safety in humans. In most animal studies, extremely large doses are employed. In some cases the doses used are equivalent to smoking 800 marihuana cigarettes daily. In many cases testing is conducted in artificial situations (e.g. tissue cultures) which leave doubt about drug action in the body. Because the life span of experimental animals (e.g. rats, mice, rabbits, monkeys) is relatively short, most of these studies only investigate short term effects. In general, animal studies are best considered preliminary research leading the way to "clinical studies."

Human research to date has not demonstrated conclusive evidence that marihuana use is significantly hazardous to health. On the other hand, this research has not demonstrated a conclusive margin of safety either.

During the past five years a large research effort has resulted from

the Department of Health, Education, and Welfare funding and reporting on the support of marihuana research. Each year the National Institute of Drug Abuse collaborates with prominent scientists to view the current research in an annual report submitted to the United States Congress. The information presented below highlights the contents of the Fourth Annual Report, Marihuana and Health, 1974.

"Previous editions have discussed in detail marihuana and its relationship to the use of other drugs. Prior use of alcohol and tobacco in youthful groups is closely associated with later cannabis use. Contrary to popular opinion, there is little evidence to support the contention that marihuana use displaces the use of alcohol and other drugs. Those who use marihuana are also likely to use alcohol--often simultaneously. Moreover, marihuana users as compared to nonusers are more likely to use or have used other, both licit and illicit, psychoactive drugs. The more heavily a user smokes marihuana, the greater the probability he has used or will use other drugs. It has been suggested that such use is related to "drug use proneness" and involvement in drug using subcultures rather than to the characteristics of cannabis, per se.

"No human research has been reported which demonstrates that disease resistance is significantly impaired by marihuana use; studies of possible genetic damage have thus far shown contradictory results.

"Two aspects of delta-9-THC which have recently been investigated may prove to be of importance in future therapeutic applica-

tion of the drug. There is a preliminary evidence that delta-9-THC delays rejection of skin grafts in rats suggesting a possible usefulness in organ transplant surgery. A second aspect, the inhibition of solid tumor growth in mice, may also eventually prove therapeutically useful in the treatment of human tumors. It should be re-emphasized that this preclinical work is highly preliminary and the treatment possibilities are only speculative at this time.

"One interesting finding in animal behavioral studies is that marihuana (at least in short term administration) in a variety of animal species has been found to reduce expressions of aggression. This observation is consistent with the widespread clinical impression that marihuana in humans, unlike alcohol, tends to reduce aggressive behavior rather than to potentiate it.

"Evidence that marihuana has a detrimental effect on driving performance, especially as the dose increases, continues to mount. It has been found to increase both braking and starting times, to adversely affect attention and concentration abilities and to detract from performance on a divided attention task, all of which are presumably involved in driving.

The third report on Marihuana and Health indicated that "there continues to be little evidence from human case reports and research studies that cannabis preparations have either a significant teratogenic effect or have any significant effect

on chromosome breakage." In one more recent study of marihuana users an increase in chromosomal abnormalities was found while in another study utilizing known dosages of pure cannabis preparations no drug-related increase was found.

"Preliminary evidence in one study of chronic American marihuana smokers indicates that levels of the male hormore testosterone may be lowered in chronic users. This study reported that six of the twenty young men studied had reduced evidence of fertility (lowered sperm counts) and two were impotent. Testosterone levels in this group were significantly lowered though they remained within what are generally regarded as normal limits, and promptly increased upon discontinuing marihuana use. Preliminary findings from two other studies of young male subjects were inconsistent; one found a depression in serum testosterone levels, another did not. The significance and implications of these findings will require further study.

"In one large scale study of undergraduate student use comparisons were made between nonusers (including those who had done a limited amount of experimentation), occasional users and chronic users (those who had used three or more times a week for three years or more or for two years if use was almost daily). No statistical differences in academic performance were found nor was there any evidence of reduced motivation. It should, of course, be noted that some chronic

users who dropped out may have been excluded. As yet, however, there is no evidence that in a college population use is typically accompanied by impaired performance or motivation. Another study of moderately using medical students who had used regularly for three or more years and who were matched with nonusing medical students for intelligence, found no difference on an extensive battery of neuropsychological tests.

"To date, well controlled studies demonstrate few differences in psychopathology in carefully matched samples of users and nonusers.

"While cannabis is a drug of very low toxicity it has, at the same time, limitations due to the psychological effects and possible tolerance to its effects developing over time.

"A preliminary study of the possible therapeutic use of marihuana has explored several possible facets of the action of THC with a group of cancer patients. This preliminary work suggests that THC may be valuable in reducing the need for other pain reducing drugs in acting as an anti-emetic, in retarding weight loss and for its tranquilizing and mild mood elevating properties. Whether these initially observed effects will prove useful over more extended periods of use with larger numbers of patients is not known at this time. It is, however, reported that the side effect of intoxication sought by street users was not troublesome--it was not experienced by the patient sample studied. The researchers interpret this as an

indication of the importance of personal expectation (the "set" of the user) in determining one's subjective response. It is noteworthy that Jamaicans who use the drug primarily as a work adjunct and to relieve the discomfort of arduous conditions also do not characteristically report the "high" sought by American recreational users."

Dr. Griffith Edwards Report

Dr. Griffith Edwards, director of the Addiction Research Unit at the Maudsley Hospital, London, England, has recently published a comprehensive 62-page review of the entire marihuana controversy. Entitled, "Cannabis and the Criteria for Legislation of a Currently Prohibited Recreational Drug: Groundwork for a Debate," it appeared in the Acta Psychiatria Scandinavica, Supplementum 251, 1974. In this report Dr. Edwards not only summarizes all relevant research to date, but attempts to weigh the evidence and, although it is yet incomplete, he arrives at the most reasonable conclusions possible in the current state of our knowledge.

Because presentations on this complex problem which are crucial, comprehensive, and judicious are not common, an attempt will be made here to summarize Dr. Edwards' views. In addition, certain sections of his report will be provided verbatim in Appendix B. The full text of Dr. Edwards' report is available through the Governor's Council office for those who may wish to study it carefully.

Dr. Edwards notes that the marihuana controversy must be viewed against a background of more general social developments which are contradictory in nature. On the one hand, there has been an increasing drive in recent years toward the freedom and automony of the individual. The individual is increasingly viewed as having the right to do as he wishes, and the constraints upon that right are viewed as being less and less. One of the consequences of this movement has been a less stringent view of the use of drugs, particularly marihuana.

On the other hand, an increasingly sophisticated methodology has been applied to the testing of drugs prior to public use. This has resulted in

higher and higher standards being developed before any drug is released by the government for use by the general population. Such high standards were responsible for the extremely fortunate refusal of the American government to approve the use of Thalidomide, an action which safeguarded thousands of infants from developing severe deformities.

Increasing caution in the availability of drugs has resulted from this experience, as well as such related substances as pesticides and food additives.

Dr. Edwards concludes that where government provides testing and evidence that a particular drug has been found to be safe under specified circumstances, the onus to prove that marihuana is safe under specified circumstances rests with the people who use it rather than a government agency.

> "The assumption is made that the substance is guilty until proven reasonably innocent, and the implication is that the onus of proving innocence lies with those who would wish to see the drug legalized."

Throughout the balance of the report, Dr. Edwards weighs this evidence. His conclusions are presented on pp. 46-50.

A ten-point summary of research data it presented which particularly stresses the large number of essential facts about marihuana which are <u>not</u> known. For example, the chemistry and pharmacology of the drug are as yet incompletely understood, though more is now known than was the case five years ago. This and the many other gaps in substantive, scientific knowledge about marihuana are reviewed. On the basis of this material, two possible but opposing positions on marihuana are suggested.

One position is that "the damage done by continuing prohibition is so much more unacceptable than the likely risks of cannabis-induced damage, that repeal should be legalized forthwith." Dr. Edwards points out that this position does not (and, in the current state of knowledge, cannot) deny the possibility that the drug may prove to be harmful, but merely holds that other considerations are more important.

The alternative position, which is favorable for prohibition or modified prohibition (decriminalization) holds "that cannabis is a substance still inadequately tested for safety, and with the provisional test evidence worrying . . . in these circumstances an ending of prohibition would be an irresponsible act which might inflict--we would certainly underline the 'might'--considerable health damage on present and future generations." Dr. Edwards adds that this recommendation is "entirely compatible with the recommendation that the stringency of the law should be modified, providing that the modification is not too abrupt, and subsequent monitoring does not show that this degree of relaxation results in an upsurge of use."

The problem, then, is to choose between these two viewpoints. Dr. Edwards emphasizes throughout his paper that this choice cannot be made on the basis of current evidence on the effect of marihuana on health though that evidence is an important factor in both positions. The reasons is that this evidence simply is not complete enough at the present time to be the decisive factor. Rather, the value judgements of those in a position to make such decisions will necessarily determine which position is finally adopted.

TREATMENT AND REHABILITATION OF MARIHUANA USERS

Although marihuana does not lead to physical dependence, a significant number of marihuana users have sought help from tertiary* drug treatment facilities in Pennsylvania. The Uniform Data Collection System of the Governor's Council on Drug and Alcohol Abuse provides a preliminary, and as yet, incomplete characterization of these treatment activities.

In November and December, 1974, 148 tertiary drug treatment facilities (slightly less than half) submitted records of 9,935 clients currently receiving some form of treatment. Of these cases, 1,679 (16.9%) report marihuana as a component of the clients' drug history.

In 656 cases (6.6%) marihuana was indicated to be the "major" problem. Twenty percent of these clients in this category entered treatment due to legal pressure.

Counseling is the primary form (89.3%) of treatment given to the majority of clients admitted to a tertiary drug program (See Figure #4). And in most cases, treatment for marihuana abusers occurs on an outpatient basis (83.3%).

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*Tertiary drug treatment facilities are aimed at dealing with those persons found to have chronic patterns (as opposed to experimental) of drug or alcohol use or abuse.

TREATMENT OF MARIHUANA USERS

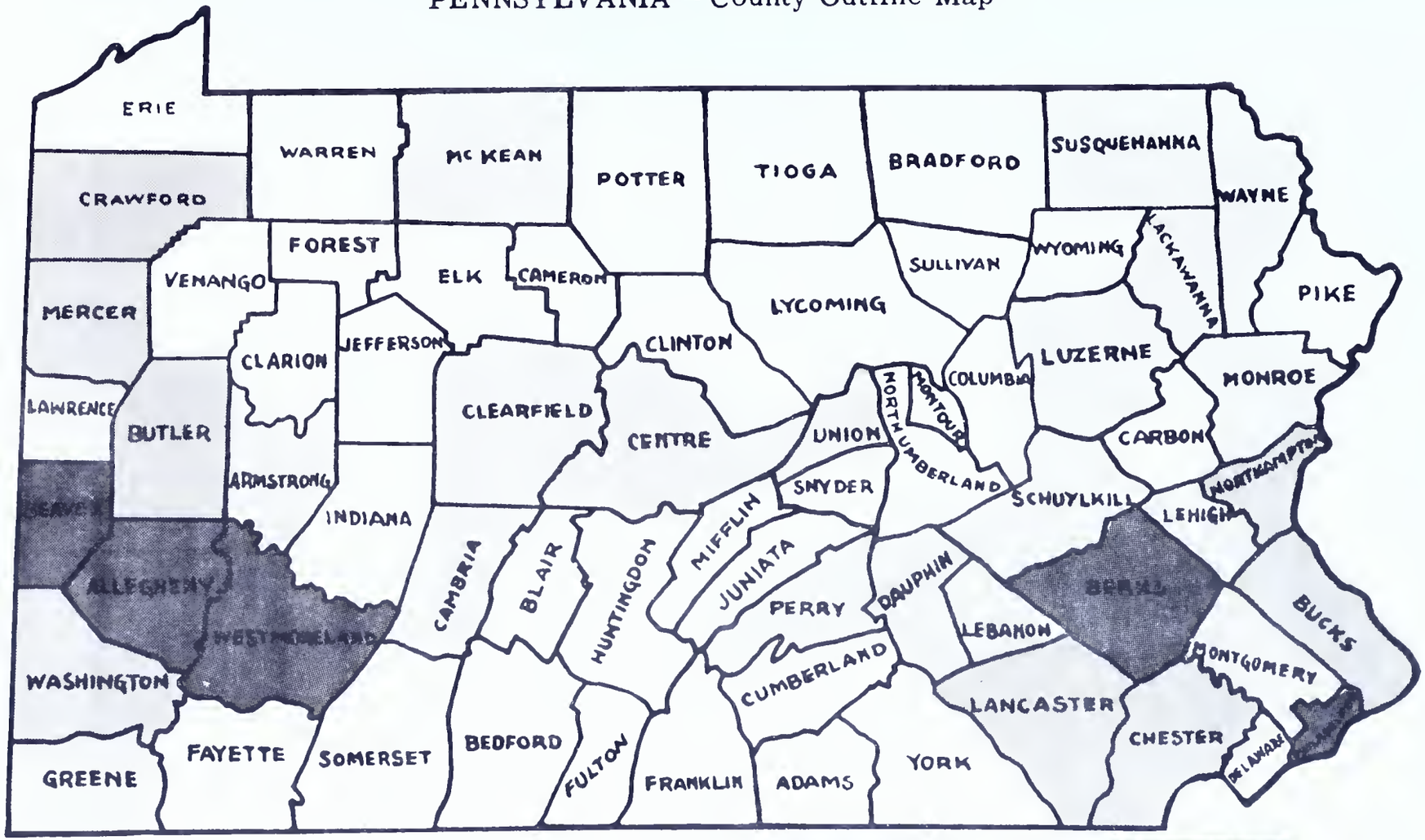
ENVIRONMENT APPROACH	CASE MANAGEMENT	RESIDENT NON-HOSPITAL	RESIDENT HOSPITAL	CORRECTIONAL FACILITY	DAY CARE	OUTPATIENT	TOTAL
Detox		1					1
Meth. Maint.							
Counseling		3		27	10	526	566
Ther. Community		56		1			57
Intermed. Care							
Halfway House				1			1
Three Qtr. Way House							
Case Mgt.	6						6
Other				1		2	3
Total	6	60		30	10	528	634

Counseling Approach used in 89.3% of cases

Outpatient Environment used in 83.3% of cases

RESIDENCE OF MARIHUANA USERS IN TREATMENT*

PENNSYLVANIA – County Outline Map



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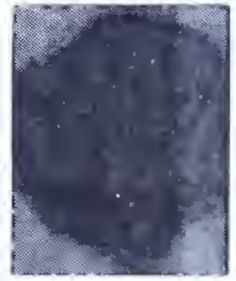

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*NOTE: 108 cases failed to report residence

RECOMMENDATIONS

In its examinations of this issue, the Governor's Council on Drug and Alcohol Abuse voted unanimously to recommend that:

A. Criminal penalties be removed for the simple possession of a small amount of marihuana or hashish. (Simple possession of a small amount of marihuana is considered as 30 grams or less; a small amount of hashish is considered as eight grams or less.)

B. A civil penalty consisting of a maximum fine of $100.00 for the simple possession of a small amount of marihuana or hashish replace the present system of criminal penalties.

C. Penalties for possession with intent to sell, manufacture, or delivery of over a small amount of marihuana or hashish will remain the same.

D. The use of marihuana or hashish be actively discouraged.

E. A factual and realistic education policy concerning marihuana aimed toward young adults should be implemented.

On the basis of the above recommendations, the Governor's Council on Drug and Alcohol Abuse suggests to the Governor and the General Assembly the following legislation:

Removal of criminal penalties for marihuana offenses have been supported by the following organizations:

American Bar Association

New York State Bar Association

Philadelphia Bar Association

Consumer Union, Publishers of Consumer Report

National Conference of Commissioners on Uniform State Laws

American Public Health Association

National Advisory Commission on Criminal Justice Standards & Goals

National Council of Churches

American Medical Association (Governing Board)

National Education Association

National Commission on Marihuana and Drug Abuse

Central Conference of American Rabbis

B'nai B'rith

Canadian Commission of Inquiry into the Non-Medical Use of Drugs

San Francisco Committee on Crime

Mayors Advisory Committee on Narcotics Addiction (Washington, DC)

John Finlator, Retired Deputy Director
Bureau of Narcotics and Dangerous Drugs
U. S. Department of Justice

The Washington Post

The Washington Star

The Boston Globe

The Los Angeles Times

The New York Times

National Review

AN ACT

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The Act of April 14, 1972, (P. L. -, No. 64) known as "The Controlled Substance, Drug, Device, and Cosmetic Act" is amended as follows:

Section 13. Prohibited Acts; Penalties --

(g) Any person who violates clause 31 of subsection (a) /is guilty of a misdemeanor and upon conviction thereof/ shall /be sentenced to imprisonment not exceeding thirty (30) days, or to/ pay a civil penalty not exceeding /five hundred dollars $500.00/ one hundred dollars $100.00 /or both/.

"APPENDIX A"

A SUMMARY OF PUBLIC HEARING TESTIMONY

In May 1975, the Governor's Council on Drug and Alcohol Abuse held three public hearings in Philadelphia, Scranton, and Centre County (Penn State University) in order to gather information and insight into the issue of marihuana from educators, law enforcement personnel, community groups, lawyers, drug program personnel, and health officials.

The panel which heard testimony and addressed questions were: Dr. Richard E. Horman, executive director of the Governor's Council on Drug and Alcohol Abuse; Susan J. Hathaway, Special Assistant and Director, Public Education and Information, Governor's Council on Drug and Alcohol Abuse; Peter S. Pennington, deputy executive director of the Governor's Council on Drug and Alcohol Abuse; and Joseph Reither, Esquire, Director, Bureau of Drug Law Enforcement, Department of Justice.

# # #

SUMMARY OF TESTIMONY

Heard at

Salon H, Commonwealth Ballroom

Marriot Inn

City Line Avenue

Philadelphia, Pennsylvania

Thursday, May 8, 1975

Statement of Stanley Kubacki, Esquire
Judge, Court of Common Pleas
Philadelphia, Pennsylvania

Statement of Keith Stroup, Esquire
Director, National Organization for
Reform of Marihuana Laws

Statement of F. Emmett Fitzpatrick, Esq.
District Attorney
Philadelphia, Pennsylvania

Statement of Mathea Falco, L.L.B.
Special Assistant to the President
Drug Abuse Council
(on behalf of Thomas Bryant, President
Drug Abuse Council, Washington, DC)

Statement of Sister Madeleine Boyd
Director and Educator
Shalom

Statement of Arthur Lewis, Regional Director
Drug Enforcement Administration
Philadelphia, Pennsylvania

JUDGE STANLEY KUBACKI
Judge, Court of Common Pleas

Judge Kubacki expressed in his testimony that he opposed the removal of legal sanctions on the possession of marihuana. However, in response to questions from the panel, Judge Kubacki indicated he would have no objection to the application of civil penalties as it relates to the marihuana issue.

Specifically, Judge Kubacki stated he would agree with the appropriateness of a civil penalty for a first offense for possession of a small quantity of marihuana below 30 grams. In the instance of a second offense, he expressed disagreement with the use of a civil penalty as opposed to criminal penalties.

Judge Kubacki went on to say the courts are not effective in dealing with marihuana possession cases at the present time. Each one of these cases, he said, properly requires a great deal of individual attention. Typically these cases result in a probationary sentence and probation officers are flooded with work that this attention is not available.

Judge Kubacki expressed concern that young people are maintaining criminal records and indicated that in instances of possession of small amounts it should not be made part of the criminal record. In Philadelphia, Judge Kubacki stated that he knew of no one who went to jail for having possession of small amounts of marihuana.

# # #

"And I believe it is Oregon where they do not--but there is a (civil) fine. It is transferred to the civil side of the court. I believe it is about $100 fine.

I would have no objection to this. But I would stay on top of the problem. But I would certainly have no objection."

(In reference to the accumulation of criminal records by young people for the possession of small amounts of marihuana:)

"For this, yes. I would agree with this. I don't think it should be made part of the criminal record, if this is all that there is."

(In reference to penalties for second offenses of marihuana possession:)

"Maybe on the second one, Doctor, it should no longer be on the civil side of the court."

"Yes . . . I have been in a drug court. And I must say, the experience is not very satisfactory for the reason that there is such a flood of this in the courts.

And as a result of this, there is a pretty cavalier attitude on the part of everybody toward it, and just moving it along. And very little or nothing is done for people who are involved in drugs."

"I do not know this for a fact. But you get a visceral reaction in the courtroom after listening to testimony.

And I have a strong feeling that the police also make a judgement. That is part of the filtering system."

# # # #

KEITH STROUP, ESQ.
Director
National Organization for the Reform of Marihuana Laws

Mr. Stroup stated that NORML supports a policy of discouragement toward the use of marihuana, but unalterably opposes the use of criminal penalties to accomplish that end.

He claimed there are certain costs inevitable with continued criminal prohibition. Stroup estimated the 420,000 arrests for marihuana offenses in 1973, the majority of which were for possession, cost around half a billion dollars. In addition the policy of criminal prohibition, Stroup suggests, produces a lack of respect for the legal system. Criminal penalties do not seem to have an effective deterrent effect. Stroup supported this claim by point out that the greatest increase in marihuana use occurred between 1956-1970, during the period of the country's strongest marihuana laws. He offered further recent evidence from a survey conducted by the Drug Abuse Council which reported only six percent of the nonusers in Oregon gave law enforcement reasons as a deterrent and only 12 percent in California stated the same reason where the penalty is a felony with a maximum ten year jail sentence. Finally, Stroup expressed concern that a significant portion of the population (13 million regular marihuana smokers) should not be treated as criminals when the only distinguishing characteristic of this group is that they perfer smoking marihuana to drinking alcohol.

Stroup suggested that there are three possible courses of action regarding the marihuana issue: The first, to continue criminal prohibition despite its costs and ineffectiveness; second, to legalize marihuana, which is untenable because of the political climate and precluded by the United States participation in the Geneva Treaty of 1961; and third, to decriminalize mari-

huana by imposing civil penalties rather than criminal penalties.

Stroup pointed out that there are many advantages to the civil citation arrangement. Applying civil penalties, he stated, still displays an official policy of discouragement, but removes the unusually harsh penalties and other disadvantages of criminal prohibition. The citation system, he claimed, would not remove the policeman from the street for several hours at a time as occurs in an arrest situation, nor would it produce the extravagent court costs for processing offenders. And finally, he stated, this approach has been shown to be preferred by the citizens of Oregon after one year of experience with the new law: 58 percent favored while 39 percent opposed the new law.

Mr. Stroup recommended that Pennsylvania adopt a partial decriminalization of marihuana by implementing a civil citation approach for possession of small quantities. He further recommended that it is the responsibility of the government to explain the law to its populace so that the new law is not interpreted as a permissive policy.

# # #

"NORML supports the discouragement policy toward the use of marihuana, and as far as that goes, toward the recreational use of all other drugs, too."

"However, if he only gives a citation, a policeman may spend two or three minutes time, and he is right out on the street. He never leaves the street.

That means basically that he is out there doing the job he is suppose to be doing."

"Now, of the 91 percent of the people who do not smoke marihuana in Oregon, despite the lack of criminal sanctions, we found that only six percent of the non-smokers gave law enforcement reasons as a deterrent."

"One, of course, is continued criminal prohibition. That is the system we have had for 35 years in this country.

Now, there are certain costs that are inevitable in that system. The most obvious one is that a lot of people are going to be saddled with arrest records."

"However, if you take those figures and multiply them times the 400,000 arrests, you see that we are spending somewhere around a half a billion dollars every year in this country on law enforcement resources."

"And only 12 percent, even in a state (California) where it is still a ten-year felony, only 12 percent of the non-users gave law enforcement reasons as a deterrent."

"I would suggest quite the contrary. The greatest increase in marihuana use this country has ever seen occurred between 1956 and 1970.

And those years, those 14 years, were the 14 years that we had the strongest penalties we have ever had in this country."

# # # #

F. EMMETT FITZPATRICK, ESQUIRE
Philadelphia District Attorney

Mr. Fitzpatrick offered no specific recommendations regarding amendment of "The Controlled Substance, Drug, Device, and Cosmetic Act." The majority of Mr. Fitzpatrick's testimony focused on finding solutions to remedy the total spectrum of drug abuse. According to Fitzpatrick the solution to the narcotics problem lies in offering more responsive treatment and rehabilitation. He pointed out that none of the courts: Criminal, Civil, Equity, and Orphans, have had an effect upon the narcotics problems.

Mr. Fitzpatrick expressed opposition to the use of civil penalties for possession of small amounts of marihuana for two reasons: First, decriminalization of marihuana does not offer a solution to the problem of drug abuse; and, second, the present law allows sufficient flexibility for a prosecutor to prosecute a person found with a minimal amount "for reasons best known to himself and law enforcement authorities." In practice, however, Fitzpatrick has seemingly decriminalized marihuana in Philadelphia as evidenced by his statement: "In most cases when small amounts of relatively harmless narcotics are used we withdraw prosecution and that's it."

Mr. Fitzpatrick urged the Council to develop more treatment centers, encourage treatment centers to examine offenders to determine if treatment can help, and to make these treatment centers aware to the prosecutors in the State. He could not, however, speculate on the possible financial impact this program would have upon the State.

# # #

"It is my feeling when I first was elected District Attorney that we could no longer afford the luxury, particularly in light of Rule 1100 of the Supreme Court requiring us to bring cases to trial within 180 days . . . of trying in criminal courts individuals who were charged with minor offenses."

"Now, I have taken it upon myself in certain first offender cases . . . to just withdraw prosecution and say we are not going to prosecute at all. Just go your way and say no more."

"I would not want to fill up treatment centers with people who are no more than first or second-time experimenters who do not have a problem that treatment centers can cure."

"I urge you, if there is to be any legislative change, to make the discretion of the prosecutor as broad as possible, because there are indeed other factors which go into whether or not a case should be sent to a rehabilitative program or should be brought to Court."

There may very well be an instance of an individual, an extremely hardened drug supplier, who is found with a minimal amount. But a prosecutor might very well wish to prosecute in his particular area for reasons best known to himself and law enforcement authorities."

"I would first of all urge you and your Council to encourage the development of treatment centers run by competent medical personnel."

"I would urge you, secondly, in the development of any of these centers, to make it a prerequisite that the centers themselves or the treatment authority tell the law enforcement authorities in each individual case that they have examined as well as they think they must the particular

defendant can benefit from rehabilitative procedures."

"I would invite you, thirdly, to recommend to the prosecutors throughout the State that these facilities either are available or let them know when (they will be established)."

"The fact of the matter is that the Courts: Criminal, Civil, Equity, Orphans, have had precious little effect upon the narcotics problem."

" . . . I do not believe that a procedure such as either calling it civil or issuing a summons or allowing someone to pay a small fine immediately rather than undergo a criminal trial is as effective a procedure in solving the overall problem."

# # # #

MATHEA FALCO, L.L.B.
Special Assistant to the President
Drug Abuse Council

Ms. Falco testified the Drug Abuse Council supports the recommendations of the National Commission on Marihuana and Drug Abuse which states that possession of marihuana for personal use or casual distribution without remuneration should not be sanctioned under criminal functions. The Drug Abuse Council maintains an "official policy of discouragement of use by civil functions."

Ms. Falco described some of the studies conducted by the Drug Abuse Council which led to the formation of their official policy.

1. Approximately 29 million Americans have tried marihuana and over 12 million use it regularly.
2. Decriminalization of marihuana in the State of Oregon has not resulted in a significant increase in use.
3. The majority of the population in Oregon favor the civil citation system.
4. Nonusers from Oregon and California cite lack of interest and health hazards as primary reasons for not using marihuana, while fear of prosecution ranked very low.
5. The consensus of distinguished scientists participating in a conference sponsored by the Drug Abuse Council (January 1975) is that the current state of medical research is not adequate to determine the extent of hazard or lack of hazard connected with marihauna use.

Ms. Falco suggested that altering social policy cannot depend on the finality of all accumulated medical data.

There are actually two problems she stated: a health problem and a criminal problem. She pointed out other substances of known hazard (e.g. alcohol) are controlled without confusion of the health problem and criminal problem. She exemplified this by pointing out that people are prosecuted for committing criminal acts while under the influence of alcohol; however, people are not prosecuted for the simple or social use of alcohol.

# # #

"We support the recommendations of the National Commission on Marihuana . . . they recommended that possession of marihuana for personal use no longer be a criminal offense, and that casual distribution for no remuneration, or insignificant remuneration not involing profit, no longer be an offense."

"What I would suggest is that we cannot afford to wait until all of the medical evidence is in concerning the effects of marihuana in determining an appropriate social policy."

"Alcohol is by far and away our nation's number one public health drug probelm . . . but we do not jail those who simply use alcohol. We do confuse potential health hazards with criminality.

Instead we invoke criminal sanctions for criminal acts committed under the influence of alcohol."

"There are two problems: a health problem and a criminal problem, and you would call it a social policy problem.

And they are just no more automatically synonymous or linked in the case of marihuana that they are in the case of alcohol or any sort of other--lots of other--substances that can be harmful."

"We are definitely against young people having criminal records for possession of small amounts. It just doesn't make any sense."

"We support criminal penalties for trafficking . . . (however) sharing of a small amount of the drug among friends, obviously not.

But for sales and transfers involving substantial profit, we support penalties."

# # # #

SISTER MADELEINE BOYD
Director and Educator, Shalom
(Prevention Program)

Sister Madeleine stated the penalty involved for simple possession cases far outweighs comparable penalties for other victimless crimes. A system of civil fines similar to the Oregon State Model, in her opinion, would be more effective and justified than the present system in Pennsylvania.

She pointed out that under the present judicial system, where one uses marihuana may be more significant than whether one uses marihuana. Penalties for the same crime vary from a jail sentence to a permanently damaged record of personal integrity, to discharge with no further consequences, all of which depend on the county. The implementation of the Oregon model, she suggested, would eliminate the discretionary interpretation allowed under the present system. It would enhance respect for the criminal justice system among youths; would eliminate 90 percent of the current marihuana arrests; would "free up" law enforcement efforts; would eliminate much of the cost of the present system; and might prove a more effective deterrent.

Sister Madeleine stated that criminal sanctions on possession of marihuana do present difficulties in dealing with the problems of youths.

From her professional experience in drug and alcohol prevention, Sister Madeleine suggested "decriminalization of marihuana will free parents, educators, community leaders, and police to work toward more enlightened solutions where marihuana use is symptomatic of deeper problems."

# # #

"In those cases where simple possession of marihuana results in a jail sentence, the penalty far outweighs comparable penalties for other victimless crimes.

My experience in working with thousands of young persons . . . has convinced me that society could benefit by a change in the penalties for those caught using marihuana."

"A swift, fairly administered civil fine similar to the Oregon state model might prove a more effective deterrent to marihuana use."

"The serious inequities that exist as a result of the discretionary interpretation allowed under the present system jeopardizes the image of how justice is administered."

"Youths would no longer fear discussing marihuana with adults. Parents and teachers would not have to fear that handling the marihuana issue in a responsible way will be construed as abetting crime."

# # # #

ARTHUR LEWIS

Regional Director, Drug Enforcement Administration

The majority of Mr. Lewis' testimony described the history of marihuana use on an international scope, and the development of international agreements to control "trafficking" of a variety of illicit drugs. The primary efforts of the Drug Enforcement Administration (DEA) are the enforcement of laws directed at large "dealers" of controlled substances, rather than persons with small amounts of marihuana for personal use.

Lewis stated a close link between "trafficking" of marihuana and trafficking of other drugs, such as heroin. He felt, therefore, that a reduction in controlling marihuana "traffic" would jeopardize the control of other illicit drug distribution.

Mr. Lewis was asked if the DEA had taken a position on the Federal bill (S.B. 1450) introduced by U.S. Senator Jacob Javits (R-New York) to decriminalize small possession of marihuana. Lewis indicated, to his knowledge, neither the DEA nor the U.S. Justice Department has taken a position on this issue. He pointed out that, typically, the Office of the U.S. Attorney General declares the Federal government's position in these cases.

United States Attorney General Edward H. Levi was quoted in the Philadelphia Inquirer (May 30, 1975) regarding his position on decriminalization, "If I had to take one at this moment--and I haven't--I think most people agree that possession of small amounts of marihuana, whether it should be decriminalized or not, out to be downgraded in terms of penalty."

# # #

"Most people assume that our policy toward marihuana is harsh and can neatly be separated from our policy toward heroin . . . let me state that illicit traffic in marihuana is big business. It is no longer the casual transfer of the weed as it was before the 1950's."

"Thousands of pounds are being smuggled into this country by large, well-financed groups. In 1970, over two million pounds of marihuana was seized . . . seizures of hashish, the resin from the top of the plant, rose from 7,000 pounds in 1970 to over 50,000 pounds in 1974."

"There is a link between heroin traffic and marihuana which is vitally important. A lessening of United States efforts to enforce marihuana laws will weaken the determination of foreign governments to assist United States is bound by treaty obligations--the Single Convention on Narcotics of 1961--to control marihuana traffic."

"And it is just impossible. If you stretched hands and reached around the border of Maine to Mexico, you could never stop or interdict large amounts of marihuana coming into the country. It is virtually impossible to do that. You just don't have the forces to do it."

"The best that law enforcement can do, given the attitudes that some people do have about law enforcement, is sort of like stick its finger in the dike and hold on and holler help, then call for the stone masons to build the thing a little bit getter."

# # # #

SUMMARY OF TESTIMONY

Heard at

Hilton Inn

225 Washington Avenue

Scranton, Pennsylvania

Wednesday, May 14, 1975

Statement of Thomas McNevin
NORML

Statement of Captain Frank Roche
Captain of Detectives
Scranton Police Department

Statement of Robert Schwartzberg
Assistant Director
Community Volunteer Services
B'nai B'rith

Statement of Doree Goodman
Executive Director
Lackawanna County Commission
on Drug and Alcohol Abuse

THOMAS McNEVIN
Scranton, NORML

Mr. McNevin's testimony basically consisted of the text of a petition circulated by a group of NORML sympathizers in the Scranton area and signed by approximately 1,000 persons. The opening statement of this document called for "an immediate end to the criminal prohibition of private marihuana use."

The petition maintained that criminal laws dealing with marihuana use are "ineffective as a deterrent, unreasonably severe, scientifically unwarranted, and disparate in their nature and enforcement."

McNevin cited a number of official research studies which reportedly concluded that marihuana presents no significant threat to public health or society. Issuing agencies include the United States Department of Health, the National Commission on Marihuana and Drug Abuse, and the Canadian Commission on Inquiry into the Non-Medical Use of Drugs. Based on these reports, McNevin said medical risk incurred in the private use of marihuana may be categorized as "informed individual choice permitted in a free society."

NcNevin, still reading from the petition, said current governmental controls over marihuana use encourage invasion of privacy. The petition also pointed to the possible danger of "violation of individual rights and liberties by overzealous law enforcement personnel."

Mr. Joseph Reiter, Esquire, Director of the Bureau of Drug Law Enforcement, cited information contained in the Shafer Commission Report which stated a consensus of physicians surveyed by the Commission considered marihuana a dangerous drug. When asked whether he was in agreement with that opinion, McNevin said every drug was potentially dangerous, whether licit or illicit.

# # #

CAPTAIN FRANK ROCHE

Captain of Detectives
Scranton Police Department

Early in his testimony, Captain Roche indicated his opposition to any proposed change in the Commonwealth's current marihuana laws. He said the present law contains adequate safeguards for what he called "the first time user" against acquiring a police record.

According to Roche, his main concern is not with marihuana smoking, as such. Rather he indicated a worsening situation in the Scranton area involving derivatives of marihuana, such as hashish and THC.

Captain Roche indicated he was aware that marihuana itself is not an addicting drug. He also expressed doubt that marihuana is responsible for a progression to harder drugs. He blamed this progression on peer pressure among young people.

Much of Roche's arguments were based on his belief that increased use of stronger derivatives of marihuana would lead to "victimization." He said decriminalization of marihuana would "open the door" to increased drug use.

Concerning the legal process of marihuana offenders, Roche said Scranton police "just don't have the time . . . to devote to going out and getting the marihuana users." Roche said it is "a waste of police time; a waste of court time" to prosecute persons possessing small amounts of the drug.

According to Roche, current laws allow prosecutors and judges to use discretion in various cases. In Scranton, said Roche, authorities can refer an individual to an Accelerated Rehabilative Disposition (ARD) program, or

totally dismiss charges against a small possessor.

Roche also said he is opposed to the passage of U. S. Senate Bill 1450 which would decriminalize possession of one ounce or less of marihuana. The captain said he would, however, favor state legislation to reduce the classification of possession of 30 grams or less of marihuana to a summary offense, thereby putting these cases within the jurisdiction of a district justice or magistrate.

# # #

" . . . I am also aware that marihuana in itself is not an addictive drug. However, to say that some younger groups, within their own peer groups, are more or less forced by their own peer group to try the marihuana plant or the marihuana cigarette, it can--I am not saying that it does--but it can lead to pressure from the peer group to try a more dangerous type of drug, and this is what my concern is."

" . . . I think that the present law of the State of Pennsylvania relevant to marihuana are quite adequate."

"What I am saying is that the derivatives from the marihuana plant are causing us a problem. We are being stormed right now with a great deal of violation with the THC business . . ."

"If we run across somebody with 30 grams or less, a young individual, we will try and contact their parents and let their parents handle it. And we feel that 30 grams or less is a waste of court time, it is a waste of police time, and we feel that if it is for a person's own use and he is not turning around and selling it, he is not profiteering from it."

"We know the consequences of putting a tag on an individual, a criminal tag on somebody of being a drug user or a drug seller. And I make no distinction between this; I have no sympathy for the seller of drugs. But the drug user is a victim of his peer group; is a victim of his environment."

# # # #

ROBERT SCHWARTZBERG
Assistant Director of
Community Volunteer Services
B'nai B'rith

Mr. Schwartzberg, representing the national office of B'nai B'rith, read a 1973 resolution passed by the organization's Board of Governors which states "current penalties for use and/or possession (of marihuana) are out of proportion to the known facts." The resolution adds, "B'nai B'rith believes that the criminal penalties against the use of the drug are totally unrealistic." According to Mr. Schwartzberg, this policy "is now representative of the response or attitude toward drug abuse that the entire B'nai B'rith nationally has taken."

The B'nai B'rith policy agrees with medical findings disproving "the earlier notion that marihuana is physically addicting or dependence producing." In light of these findings, the organization states its opposition to penalties imposed by current marihuana laws that "can and do scar the lives of those who would otherwise be regarded as law-abiding citizens."

Commenting on the resolution, Schwartzberg said his organization "would like to see all states adopting something similar to the Oregon Plan . . ." which reduced marihuana possession to a citation offense. Under questioning, Schwartberg said new marihuana laws are needed to protect young people from acquiring a criminal record. According to the B'nai B'rith representative, such a record is unwarranted for what he called a "victimless crime." He said current Pennsylvania provisions for expungement of criminal records are not adequate protection because "even if there is a law on the books calling for expungement under certain circumstances, I question the

ability of the state to see that the local counties are following the law."

Schwartzberg opposed the notion that current marihuana laws serve as a deterrent to drug use. "I think that efforts to deterrents or the history of the efforts of states all over the country . . . have been a waste of money and time."

# # #

"The known consequences of incarceration and a felonious criminal record far outweigh the minimal dangers presented by the use of marihuana. In many ways, the enforcement of present marihuana laws impose the very kind of cruel and unusual punishment that the Constitution of the United States specifically forbids."

"I don't dismiss any of these (medical research) reports. Quite frankly, I think the more reports we get, the more it points up to the inability to put a label on marihuana, because the more reports that there are the more contradictions there are."

"I am saying, yes, the state has an obligation to educate the public to what the facts are. I am against the state telling the public whether they should or shouldn't smoke (marihuana)."

# # # #

MS. DOREE GOODMAN
Executive Director
Lackawanna County Commission on Drug and Alcohol Abuse

In her formal opening statement to the Governor's Council panel, Ms. Goodman proposed "Pennsylvania follow the lead of Senators Javits, Cranston, and Brooks in the U.S. Senate, and states such as Oregon, in decriminalizing the personal possession of small amounts of marihuana and in substituting for a criminal penalty a minimal civil fine."

She also advocated an end to criminal penalties for non-profit transfers of small amounts of the drug.

Although public policy should be to discourage the indiscriminate use of drugs, said Goodman, "we should trust mature and intelligent persons to make intelligent decisions regarding chemical use." She continued, "It appears to me that we cannot legislate morality, that laws in and of themselves do not deter people from abusing and/or harming themselves."

Goodman questioned the amount of time and money spent by the criminal justice system dealing with victimless crimes. She suggested a change in the marihuana laws would "relieve some of the burden on the courts and public defenders and other related offices."

According to Goodman, "by labeling and stigmatizing and incarcerating young persons through the criminal process, we appear to be doing them more damage and narrowing their options even more than the personal use of marihuana." She said many young persons who have been arrested for drug violations are avoided by "straight" teenagers, thus forcing them even farther into the drug culture. This occurs, said Goodman, in spite of the fact that the individual may previously have been a casual experimenter with marihuana.

Under questioning by panel members, Goodman said treatment procedures for marihuana abusers consist largely of individual and group counseling. According to her statistics, 44 percent of the marihuana users undergoing treatment in Lackawanna County were referred by the criminal justice system. Referring to these statistics, she said, "in many cases the treatment may be ineffective because treatment itself may not even have been warranted . . . because there may not really have been any behavior to change in the first place." She said many casual experimenters opt for mandatory treatment as the only alternative to involvement with the criminal justice system and the acquisition of a criminal label.

# # #

" . . . I still believe that laws in and of themselves, the legislation, is not effective in preventing persons from using marihuana, and that we cannot really legislate against use or legislate morality."

"Let me raise one other question . . . and that is whether in a society that is as drug oriented as ours, where the media encourages the use of chemicals from morning to night, it becomes reasonable to rule out the use of any chemical as illegal."

"Criminal penalties for use and possession appear disproportionate to the degree of mental and physical risks involved."

" . . . it appears to me indefensible to equate marihuana with hard narcotics under the criminal law."

# # # #

SUMMARY OF TESTIMONY

Heard at

Hetzel Union Building

University Park Campus

Pennsylvania State University

University Park, Pennsylvania

Wednesday, May 21, 1975

Statement of Dr. Lee Upcraft, Director
Residential Life Program
University Park Campus
Pennsylvania State University

Statement of Joe Seufer, Student President
University Park Campus
Pennsylvania State University
(accompanied by Steven Rudman, State Coordinator
Penn State Organization for the Reform of
Marihuana Laws)

Statement of Dr. John Hargleroad II, Director
Health Services
University Park Campus
Pennsylvania State University

Statement of Charles Brown, Esquire
Centre County District Attorney

Statement of Alan Ellis, Esquire
Counsel
Pennsylvania Branch NORML

Statement of Joseph Diament
On Drugs, Incorporated
State College, Pennsylvania

DR. LEE UPCRAFT
Director, Residental Life Program

Referring to a "consensus view of our residence hall staff concerning drug and alcohol abuse," Dr. Upcraft said, "we see no particular advantage in changing the current (marihuana) laws." According to Upcraft, decriminalization would result, "at least temporarily and possibly permanently," in the increased use of marihuana. Increased use, said Upcraft, would lead to increased abuse and the University does not maintain the facilities to deal with police and treatment problems which might be created by increased marihuana use.

Although he opposed decriminalization, the administrator said "classifying possession of small amounts of marihuana as a misdemeanor may be too strong a punishment." Again, speaking on behalf of his staff, he said "the penalties for marihuana should be consistent with other drugs of similar impact, such as alcohol."

On the Penn State Campus, said Upcraft, the number of marihuana cases handled by the University Police and the school's discipline system has remained relatively stable while alcohol-related incidents have increased "by over 100 percent in the last three years." He said residence hall staff members believe marihuana use has actually declined in recent years for several reasons: (1) many students had experimented with the drug in high school before coming to college, (2) the price of marihuana has increased, and (3) the risk of detection and disciplinary action is greater with marihuana than alcohol.

Alcohol has become the University's chief drug problem, according to Upcraft. He called for state action to lower the drinking age to 18. He said

it is "inconsistent to declare college students as adults for all other purposes except alcohol consumption. The net result is underage drinking takes on more importance than it should for young people."

# # #

"Marihuana does not present a large, serious problem to our residence hall staff, nor to students. Decriminalization runs the risk of introducing more serious problems than we currently experience."

"It is not consistent to treat underage alcohol consumption as a summary offense, and possession of marihuana as a misdemeanor."

"I don't necessarily see that much of a connection between the law enforcement efforts and the decline in marihuana usage. I see it more as a student cultural phenomenon. It is just not as exciting. It is not as cool. The peer group is just plain not reinforcing that behavior as it did in the late 60's and early 70's."

"It is quite possible that someone who is caught in possession of marihuana could be both sanctioned or punished through the (University) discipline system as well as being prosecuted in the courts."

# # # #

JOE SEUFER
Student President

STEVEN RUDMAN
Student Coordinator, NORML

Mr. Seufer began his testimony with an enforsement of the NORML position concerning decriminalization of marihuana. "I believe the decision to smoke marihuana is a private, personal one," said Seufer, "and should not be dictated by law." He said present marihuana control laws do not deter usage, "although they continue to label a significant minority of American citizens as criminals."

Seufer cited results of a survey initiated by Pennsylvania NORML where interviews taken from a random sample of 450 students revealed, next to alcohol, marihuana was the most frequently used drug on campus. Fifty-five percent of Penn State students consider themselves regular marihuana users, according to the study.

He blamed government, in general, for creating "myths" that marihuana use would lead to "violence, rape, and murder in the public." "America'a youth lost respect for all institutions and became alienated" when older citizens attempted to impose their values on them, according to Seufer.

Rudman disagreed with the idea of mandatory rehabilitation or counseling for persons convicted of marihuana-related offenses. "I don't think the use of marihuana mandates any type of counseling," he said.

Rudman blamed much of the misunderstanding about marihuana on inaccurate drug education programs. He said students know from personal experience in many cases, that scare tactics employed in some programs provide "fallacious" information. Programs of this type, he continued, cause students to ignore official sources of information about dangerous drugs.

# # #

SEUFER

"There is a need for reform whenever a law ceases to be of social usefulness. The time has come for clearing the air of misinformation and emotion, enabling a basis to be developed for a rational social policy regarding marihuana use. The time has come to decriminalize marihuana possession in Pennsylvania."

"Not only do states have disparate laws and policies, but each county in Pennsylvania treats marihuana violations differently. Thus, where a person is arrested is very important."

"Marihuana decriminalization may very well help to bring back a united homogeneous feeling in the country."

RUDMAN

"In my opinion, alcohol is much more dangerous than marihuana."

"I believe, in our society, there should be no laws restricting what an individual wants to do to his own body."

# # # #

DR. JOHN HARGLEROAD II
Director of Health Services

"On the matter of decriminalization of marihuana, it was the consensus of the group that it should be decriminalized. It is our opinion that its use is socially acceptable by those that we have contact with, the law is not effective in prohibiting its use, and the dangers do not warrant such penalties," stated Dr. Hargleroad who presented the opinions of approximately twenty members of the University Health Services staff in his opening statement.

According to Hargleroad, staff members agree marihuana is not an addicting substance and interruption of use does not cause any type of physical withdrawal symptoms. One staff psychiatrist noted he had never seen a psychotic reaction to marihuana use.

Hargleroad estimated that some 50 percent of the Penn State student body has had some experience with the drug. Explaining the most common circumstances of student marihuana use, he said, "It seems to be the consensus that marihuana was used most frequently in a group social setting one to three times a week, but may on occasion be employed in a solitary setting."

University drug control efforts, Hargleroad said, should consist mainly of more effective drug education programs. He said individuals should be allowed to make independent decisions about drug use without criminal prohibition.

Hargleroad said University Health Services personnel treat a large number of students for the effects of alcohol and various drugs. "Marihuana

has been different," he concluded, "in the effect that we have never had a student come in with the complaint that they had had ill effects from the use of marihuana."

# # #

"As a physician here on campus, I would like to make available to any potential user as much information as we can do so, and then let him judge whether he wants to take the risk . . . I don't think, as a physician at a university, that I should act in any other way."

"I am not sure that I would want to be placed in the position of saying I would like to see prohibition of every agent which is harmful to a person's body."

"Well, can you tell me how the decrease of testosterone is going to endanger somebody else?" (On the possibility that law should be based on medical reports such as those indicating lowered testosterone production caused by marihuana use.)

" . . . I testified that I do not know of bodily harm that was done by the use of marihuana, certainly in our experience."

# # # #

CHARLES BROWN, ESQ.
Centre County District Attorney

In his formal statement to the Governor's Council panel, Centre County District Attorney, Charles Brown, said, "I am suggesting that use of marihuana not be a crime: felony, misdemeanor, or summary offense." He further suggested "that possession of an amount which is deemed to be for use only, be no more than a summary offense."

Brown said law enforcement officials do not have the resources to pursue cases of possession of small amounts of marihuana. Enforcement efforts in Centre County are concentrated on "the so-called pusher or dealer, someone who is making a profit from the distribution of marihuana." He said current marihuana provisions impose a burden on police, prosecutors, and the courts.

" . . . if the legislature of Pennsylvania would decriminalize use, possession, and distribution of marihuana, law enforcement personnel would gladly turn their attention to the more serious matters of crimes against persons and property."

Brown, president of the Pennsylvania District Attorneys Association, said "I do find a feeling generally among the district attorneys that, frankly, they have more important things to do than to prosecute through the courts persons involved with small amounts of marihuana. And they certainly feel that way with regard to its use."

Asked whether he thought legislators might not support decriminalization legislation because of fears of not being reelected, Brown said, "that was also the feeling about the income tax. And then, all of a sudden in Pennsylvania,

everybody running for election was in favor of an income tax."

# # #

" . . . there is a feeling--not much more positive than that, however--among the public and law enforcement officials that the use of marihuana does not seriously affect a person's health."

" . . . use of marihuana is still being punished as a crime and should not be so."

"It seems to me that we are heading toward handling the matter of marihuana use, possession, and delivery much as we do cigarettes and alcoholic beverages."

# # # #

ALAN ELLIS, ESQ.
Counsel to Pennsylvania
National Organization to Reform Marihuana Laws

Mr. Ellis, an attorney specializing in narcotics law, supported "the removal of criminal sanctions for the possession of small amounts of marihuana for personal use." He also endorsed the plan for decriminalization proposed by the National Commission on Marihuana and Drug Abuse.

According to Ellis, current marihuana laws "breed bewilderment and contempt for the law: and "engender disrespect for all laws and distrust of both the agents and institutions of government." He said his contempt on the part of young people stems from selective enforcement of the laws based on unpopular lifestyles or political beliefs.

Current marihuana laws "destroy the credibility of drug education programs which seek to inform users of the very real dangers of hard drug use." As long as marihuana use is categorized as criminal, said the attorney, experimentation with more dangerous and illicit drugs is "inevitable."

"The actual and potential threat to the individual's economic and social interest posed by an arrest record has been well documented," said Ellis. Whether an individual is convicted or not, the mere fact that he has been arrested is enough to discourage a potential employer, he added. Ellis said he has knowledge of students who dropped out of school "for the sole reason that they feel this (criminal) record will effectively preclude their getting meaningful future employment (which) would otherwise be available to them as a college graduate."

Ellis called for the institution of a system of civil penalties for marihuana possession similar to that operating in Oregon. He opposed the

the classification of marihuana possession as a summary offense because "Rule 100 of the Pennsylvania rules of criminal procedure labels a summary offense as a criminal offense."

# # #

"I respectfully urge you to recommend the introduction and passage of a bill providing for decriminalization of marihuana here in Pennsylvania."

"I am not in favor of treating people who choose to freely use marihuana as criminals. They are not criminals . . . they are otherwise law-abiding citizens who, but for the fact of the marihuana laws, would never appear in the criminal justice system."

"So long as marihuana is listed as a Schedule I drug along with LSD and cocaine . . . lumping it along with more dangerous drugs, there is a risk the marihuana user might turn to these drugs."

"Even if we were to find out tomorrow that marihuana is as harmful as alcohol and tobacco, I would still fully support the decriminalization of marihuana insofar as it relates to those people who freely choose to use marihuana on a personal basis."

# # # #

JOSEPH DIAMENT

On Drugs, Inc.

In his opening statement, Mr. Diament said On Drugs, Inc., a crisis intervention and information center, "does not at the present time have a stand on the legalization issue." "This is based on our desire to avoid alienating any segment of our client population," he added. Diament said his testimony would consist, rather, of a report of his agency's experience with marihuana-related cases.

According to the agency's records, marihuana is often mentioned by clients when asked to list drugs they use or have used. However, Diament said, very few clients have ever sought On Drugs' services solely because of marihuana use.

"It is the consensus of the agency's staff," Diament continued, "that marihuana has been the least problematic drug within our client population."

Diament said some marihuana-related cases involve resolution of family disputes caused by use of the drug by a young person. Parents are usually more concerned about the legal consequences of a drug arrest and their impact on the child's future than by direct effects of the drug, he stated. "An additional fear is the 'crowd' that the son or daughter must consort with in order to partake in an illicit activity," Diament said.

# # #

"APPENDIX B" *

"Favorable to Legalization"

An entirely legitimate value-interpretation of the evidence assembled in this paper is that the damage done by continuing prohibition is so much more unacceptable than the likely risks of cannabis-induced damage, that repeal should be legalized forthwith. The convinced and honest protogonist of repeal will perceive the assembled evidence and the listed major uncertainties as accurately as the convinced and honest prohibitionist: the man who favors repeal will, however, give high value weighting to decriminalization and individual liberty. Such is an entirely legitimate stance: in the light of present evidence it would, however, be illegitimate for that man to take up the position that cannabis is of proven harmlessness. His position is coherent only if he accepts the entirely open possibility of health risk and then states that in his value system that possible risk weighs less than his regard for civil liberties. He would though be quite foolish to argue that because science has not yet come through with convincing evidence that cannabis damages the individual, and because speculative extrapolation cannot establish the likely prevalences of damage in the post-prohibition situation, therefore, the risks of damage and high damage prevalence have been ruled out. A repeal argument based on the dismissal of the possibility of risk can in light of present (and very imperfect) evidence, no longer be considered a tenable position. Neither is it convincing to argue that repeal could be on an experimental basis: there are few if any historical examples of a recreational drug use, once legalized, subsequently being effectively prohibited.

"Favorable to Prohibition or Modified Prohibition"

Anyone who surveys the established facts (and the lacunae), with a cast of mind which by habit takes the Public Health perspective--and particularly a "safety of drugs" perspective--will probably conclude that cannabis is a substance still inadequately tested for safety, and with the provisional test evidence worrying. He would argue that in these circumstances an ending of prohibition would be an irresponsible act which might inflict--he would certainly underline the "might"--considerable health damage on present and future generations. If his position were to be as honest as the honest advocate of repeal, he would, however, have to admit that he, also, was weighing the evidence in terms of his personal value judgements; he could not legitimately deny that prohibition inflicts some costs, but he openly makes the choice to give more weight to health considerations. Such a Public Health stance is, of course, entirely compatible with the recommendation that the stringency of the law should be modified provided that modification is not too abrupt, and subsequent monitoring does not show that this degree of relaxation results in an upsurge of use.

The man who recommends that the Public Health view be taken will also undoubtedly plead that more research be done. He will reject the taunt that a prohibitionist lobby is always stalling for time by asking for "more research," and he will regard as uninformed the argument that if there were anything that research could prove there would by now be proof positive; in matters as complex as these,

research is not something which can be too hurried, or held to a promise of "giving the answer" within any limited space of time. A listing of what might seem the most pressing research needs is set out in an appendix."

# # #

*Verbatim Text from "Cannabis and the Criteria for Legislation of a Currently Prohibited Recreational Drug: Groundwork for a Debate" by Dr. Griffith Edwards, Addiction Research Unit at Maudsley Hospital, London, England, as it appeared in the Acta Psychiatria Scandinavica, Supplementum 251, 1974.

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